

Application No. 09/940558
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Amendment
Attorney Docket No. S63.2B-9482-US01

Remarks

This Amendment is in response to the Office Action dated October 21, 2004.

In the official action, claims 63-67 and 69-76 were rejected under 35 USC §103(a) as being unpatentable over Saitou et al. (USPN 6451005) in view of Smith et al (USPN 6531559) and further in view of Garabedian et al. (USPN 6171295). A full account of the rejection is found on pages 3-6.

Applicant respectfully traverses. Among other reasons, the rejection fails because the "layers" of materials of Saitou et al. are not co-extruded, as required by the claimed invention. As discussed in col. 14, lines 31-58, the reference teaches forming an inner layer 7 on a mandrel and then placing a wire coil 3 on the inner layer 7 and subsequently applying the outer layer 8 over the coil 3/inner layer 7 combination. At col. 15, lines 18-21, it is further stated that the outer layer 8 is applied to the outer side of the coil 3 and the inner layer 7. As such, the reference teaches away from co-extruding three layers, as required by the claimed invention. In part, this is due to the incorporation of the placement of the wire coil 3.

It is further asserted in the official action at the bottom of page 5 and continuing onto page 6 that, in justifying the addition of Garabedian et al. as a combined reference supporting the rejection, Garabedian et al. teach that PTFE is required on both the innermost and outermost layer of a medical tube, because of its biocompatibility and lubricious behavior (col. 4, lines 4-14 and col. 7, lines 25-26). Applicant finds no such requirement in the reference. It is noted that the inner layer may comprise PTFE, however, it may also be HDPE (col. 3, lines 66-67) or other lubricious materials. Applicant also fails to find that the outer layer be required to be PTFE, as asserted in the rejection. There are a number of materials that provide biocompatibility and lubriciousness and motivation to make the specific combination and alter the invention of Saitou et al. as asserted in the rejection is lacking. As such, the rejection further fails because the cited reference fails to provide the teachings used in support of the rejection.

Garabedian et al. also teaches away from the claimed invention in that it teaches applying the layers in a step wise fashion onto a mandrel so as to accommodate the addition of the wire reinforcement layer and, as such, would not motivate one to co-extrude three layers, as required by the claims.

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Withdrawal of the rejection is requested because the rejection lacks clear teachings and fails to provide adequate motivation to make the asserted combination, especially in light of the fact that three references are being utilized. Only in hindsight of Applicant's application might one consider the claimed invention obvious.

The claims are now believed to be in condition for allowance. The prompt allowance of these claims is earnestly solicited. If the Examiner wishes to discuss further issues, he is invited to contact the undersigned.

Respectfully submitted,

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